

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

WILLIAM R. REVOAL, II,

Plaintiff,

v.

Governor **JOHN KITZHABER**, Mayor
SAM ADAMS, Executive Director
DOREEN BINDER,

Defendants.

Case No. 3:12-cv-01842-JE

**ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS**

SIMON, District Judge.

Magistrate Judge John Jelderks filed Findings and Recommendations in the above-captioned case on October 25th, 2012. Dkt. 6. Judge Jelderks recommended that Plaintiff's complaint, dkt. 1, should be dismissed without service of process for failure to state a claim upon which relief may be granted. Judge Jelderks also recommend that the court enter a judgment dismissing this action with prejudice. No party has filed objections.

Under the Federal Magistrates Act ("Act"), the court may "accept, reject or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). If a party files objections to a magistrate's findings and recommendations, "the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." *Id.*; Fed. R. Civ. P. 72(b)(3).

If no party objects, the Act does not prescribe a standard of review. In such cases, “[t]here is no indication that Congress . . . intended to require a district judge to review a magistrate’s report[.]” *Thomas v. Arn*, 474 U.S. 140, 152 (1985); *see also United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (*en banc*), *cert. denied*, 540 U.S. 900 (2003) (the court must review de novo magistrate’s findings and recommendations if objection is made, “but not otherwise”).

Although review is not required in the absence of objections, the Act “does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard.” *Thomas*, 474 U.S. at 154. Indeed, the Advisory Committee Notes to Fed. R. Civ. P. 72(b) recommend that “[w]hen no timely objection is filed,” the court review the magistrate’s findings and recommendations for “clear error on the face of the record.”

No party having made objections, this Court follows the recommendation of the Advisory Committee and reviews Magistrate Judge Jelderk’s Findings and Recommendations for clear error on the face of the record. No such error is apparent. The court, therefore, orders that Judge Jelderk’s Findings and Recommendations, dkt. 6, are **ADOPTED**. Plaintiff’s complaint, dkt. 1, is **DISMISSED** with prejudice.

IT IS SO ORDERED.

Dated this 27th day of November, 2012.

/s/ Michael H. Simon
Michael H. Simon
United States District Judge